IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE CRIMINAL JURISDICTION

CRIMINAL APPLICATION NO. 4231 OF 2004

IN

CRIMINAL WRIT PETITION NO. 1665 OF 2004

Lalji Sing @ Vinod Singh
Beni Prasad Singh ... Applicant.

vs.
The State of Maharashtra ... Respondent.

Mr. N. N. Gawankar with
Mr. Arfan AEA Sait for applicant
Mr. A.S. Shitole , APP for State.

CORAM: **A. S. AGUIAR J.**
Date: October, 18, 2004

P.C.

By this application the petitioner seeks modification of the order dated 23.8.04 passed by this court directing the Minister of State for Home Affairs to give a fresh hearing to the applicant in the appeal pending before him since 3rd February 1995, preferred by him and dispose of the same within a time frame.

This court by order dated 23.8.04 directed the Appellate Authority i.e., the Minister of State for Home Affairs to hear the petitioner and dispose the appeal within a period of 4 weeks from the date of receipt of writ from this court.

Subsequently the applicant received a letter dated 10th

September 2004 from the Desk Officer, Home Department informing him that his appeal was heard and disposed of on 7.5.1999 and appeal has been rejected. The learned advocate for the applicant states that the fact of the appeal having been heard and disposed of was never communicated to the applicant and in fact the applicant was not heard in the matter at all. After receipt of the said letter from Home Department , the petitioner again wrote to the Principal Secretary, Home Department by letter dated 15.9.04 asking for fresh hearing. However, he has not received any response to the said letter.

Learned APP present in the court states that the then Home Minister by order dated 7.5.99 rejected the application of the applicant as the applicant had criminal cases and that though the applicant has been acquitted it was not advisable to issue any licence to him for possessing arms. It is further pointed out by the learned APP that the said order was communicated to the applicant by letter dated 30th June 1999. However, the learned advocate for the applicant denies that any such letter was received. The respondent – State is unable to produce any proof of having sent the said letter, although the learned APP has produced before the court a carbon copy of the said order ,which is in the relevant file of the department. Thus the order of this court dated 23.8.04 directing the Minister to give the hearing to the applicant and to dispose of the appeal within 4 weeks have become infructuous as the appeal had already been disposed off. There is some doubt whether the said order is communicated to the applicant or not.

Be that as it may, since the order has been passed by

the Home Minister on the appeal of the applicant and rejected, the question of now directing the Home Minister, the Appellate Authority, to rehear the appeal does not arise.

However, it is open to the applicant to move a fresh application for issue of his arms licence. If such an application is made the same will be considered by the authorities concerned within a period of 4 weeks from the receipt thereof.

Criminal Application is dismissed and disposed of in the above terms.

Parties to act on a authenticated copy of this order.

(A. S. AGUIAR J.)

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